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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/319,438	06/07/1999	JOHN WALTERS	14-196PCT	3079
2292	7590	12/19/2003	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			PRATT, CHRISTOPHER C	
			ART UNIT	PAPER NUMBER

1771

DATE MAILED: 12/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/319,438	WALTERS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Christopher C Pratt	1771	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 August 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12-32 is/are pending in the application.
- 4a) Of the above claim(s) 14-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12 and 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendments and accompanying remarks filed 8/14/03 have been entered and carefully considered. Applicant's amendment is found to overcome the claim objection set forth in the previous action. Despite this advance, the amendments are not found to patently distinguish the claims over the prior art and Applicant's arguments are not found persuasive of patentability for reasons set forth herein below.

### ***Election/Restrictions***

2. This application contains claims 14-32 drawn to an invention nonelected with traverse. A complete reply to the final rejection must include cancelation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01. Applicant argues that some claims depend from elected claims 12-13. These claims will be rejoined and allowed in the event that claims 12-13 are found allowable.

### ***Claim Rejections - 35 USC § 102***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 12-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Cantwell (5786028), as set forth in the previous action.

Applicant has amended the claim to include the limitation that the nonwoven mat is permeable to a gypsum plaster slurry. It is the examiner's position that the nonwoven

mat of Cantwell is inherently permeable to gypsum slurry, because nonwoven materials are inherently permeable. Applicant argues that in order for Cantwell's tape to serve in its intended function it must be impermeable to liquid coatings. The examiner agrees with applicant's position. The inherent permeability of Cantwell's fabric is overcome with additional layers laminated to both sides of fabric. These additional layers render the laminate impermeable, but the fabric itself is still inherently permeable and therefore reads on applicant's claim limitation.

Applicant argues that Cantwell fails to teach a nonwoven material. However, in the bridging paragraph of cols. 5-6, Cantwell discloses that the body of the tape is either a glass fabric or a "fiberglass." The term glass fabric is used in the art to refer to woven or mesh materials and the word "fiberglass" is used to refer to nonwoven materials.

### ***Claim Rejections - 35 USC § 103***

5. Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dickenson et al (5409768) in view of Caldwell et al (5856245), Amann (5223329), Tashiro et al (5204041), as set forth in the previous action.

Applicant argues that Caldwell teaches away from the use of inorganic fibers by teaching that "reinforcing fibers" "limit the ability to scarf the absorbent to contour or shape its exterior design." Applicant equates inorganic fibers with the "reinforcing fibers" referenced by Dickenson. However, there is no indication that reinforcing fibers are inorganic fibers. Moreover, even if the term "reinforcing fibers" referred to inorganic fibers there is indication that all inorganic fibers would qualify as "reinforcing fibers." L

Also, later in the paragraph, Dickenson teaches that "reinforcing fibers" can actually be used in the product by using certain processing conditions.

Applicant argues that inorganic fibers would decrease Dickenson's ability to shave off fibers. Some inorganic fibers, such as metal or glass, would cause difficulty in shaving, but many inorganic fibers could be easily shaved. Applicant's claims fail to specify what inorganic fibers are used.

### ***Conclusion***

**6. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

**7.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Pratt whose telephone number is 703-305-6559. The examiner can normally be reached on Monday - Friday from 7 am to 4 pm.

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If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Christopher C. Pratt  
December 8, 2003



**Ms. Arti R. Singh**  
Primary Examiner  
Tech Center 1700